

City negotiating to buy Chili Cook-off site for wastewater facility, park

The city would build a wastewater treatment facility at the site, and perhaps a park. However, it must first convince Malibu Bay Company to sell.

By Jonathan Friedman
Special to the Malibu Times

Negotiations are underway for a radical change to the Malibu Bay Company (MBC) Development Agreement (DA). At a special meeting last week, the City Council unanimously gave the approval for City Attorney Christy Hogan to meet with MBC representatives on a new deal in which the city would purchase the Civic Center area's Chili

Cook-Off site. There, it could build a wastewater treatment facility, something many believe the city desperately needs. Also, a park could be built on the land.

However, for the whole process to work, the city would need to acquire several grants and loans for

both the purchase of the land and the facility. It would also have to convince the MBC it would be better off selling the land rather than developing 185,000 square feet of it for commercial use as planned in the current development agreement.

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"This is such a monumental opportunity if it all comes together," Councilmember Sharon Barovsky said. "It is a chance to clean up the lagoon."

According to city staff, the project would require funding in excess of \$20 million. The city is applying for several grant funds to get some of that money, which would also be paid for through a percentage of matching funds from the city. Also, the creation of an assessment district would be used.

Although only a small handful of people attended the meeting, all who were there strongly favored the council's action. Among them was Uzzie Silna, a member of Malibu Community Action Network (CAN), which has previously spoken out against the MBC Development Agreement.

"Our position is against major overdevelopment," Silna said in a telephone interview. "This would be something to cleanse the lagoon and the ocean, and deal with pollution issues."

While Silna said he supports what the council is trying to do, he stressed that he is not ready to start campaigning on behalf of the MBC. Silna pointed out that it would not necessarily be an easy goal to achieve getting the MBC to sell the land. He added there are still several more issues that trouble him with the agreement, including the residential development at the Trancas property.

Hogin is also expected to take another look at the MBC's donation agreement of 18.87 acres of land on its Point Dume site and other issues involved in the agreement during her meetings. She said she expects to have some sort of idea on how the negotiations are going by Friday, June 13. She added that the council's schedule to review the agreement might have to be altered if the negotiations are successful, since it would change a lot of people's take on the agreement.

MBC spokesperson David

Reznick declined to comment on the company's view of the proposal.

At Monday's meeting, the City Council conducted a workshop on the agreement. Nothing was mentioned of this latest happenings; rather, the council heard an overview of the agreement from Senior Planner Scott Albright. The council then asked numerous clarification questions and asked for staff to bring back more information on certain items. Also, several members of the public spoke at the meeting. Seven people spoke in favor of the agreement, while four spoke against it.

But the highlight of the meeting came when Councilmember John House spoke for about 20 minutes on the history of the agreement. House was a member of the three person ad-hoc committee along with then-Councilmember Tom Hasse and the former city manager. The Planning Commission, which unanimously recommended the City Council reject the agreement, had suggested that the MBC's top-notch negotiators outsmarted the committee.

"I've heard a lot of rumors about how the negotiations supposedly went," she said. "But the truth is that there were the three of us and three people representing the other side. There were no lawyers there in some smoke-filled room."

Several other councilmembers spoke in defense of House. Councilmember Barovsky said she was somewhat offended by the Planning Commission's comments. Kearsley also advocated for her.

"I believe they got the best deal the Malibu Bay Company was going to give," Kearsley said. "The idea that somehow we had amateurs lined up against professionals is not true."

The council meets again next Wednesday for a public hearing on the agreement. At that time it will discuss the MBC's proposed donation agreement.

New deal in the works for MBC

The Malibu Times June 26, 2003

A reworked deal would include the purchase of the Chili Cook-off site by the city to build a wastewater treatment facility. The Point Dume location would be taken out of the deal and a contribution for a community center and ball fields would be reduced from \$5 million to \$2.5 million.

by Jonathon Friedman
Special to the Malibu Times

There is a new Malibu Bay Company (MBC) Development deal on the table. City Attorney Christi Hogin announced the new proposal, called Plan B, at last Wednesday's public hearing. Hogin is meeting with MBC representatives, as the two sides work out the details for a final version of Plan B, which could be ready by the end of this week. All the councilmembers praised the new proposal.

The most drastic difference between the original agreement, called Plan A, and Plan B is that Plan B includes the city purchasing the MBC's Chili Cook-Off site for \$25 million. There, it could build a wastewater treatment facility. The MBC would be able to hook up to the system, but be required to pay its share. However, with the new plan, the company would be removing its donation of an 18.87-acre site on Point Dume. Instead, it would develop the land under the current zoning laws. Also, the

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contribution for a community center and ball fields would be reduced from \$5 million to \$2.5 million and be used only for ball fields. In addition, the MBC would build a new urgent care facility. Lastly, the city would be able to perform a restoration project at Francis Creek. All other details of the original agreement would remain the same.

In order to purchase the Chili Cook-off site, the city is applying for grant money. It already has \$1 million it got from a 1992 Los Angeles County park bond. The city would also have to come up with its own money to purchase the developed properties on the site. In addition, the city is applying for a loan to build the facility.

Last week, City Manager Katie Liehig and Councilmember Sharon Barovsky were in Sacramento where they met with several high officials from the California Environmental Protection Agency, the State Water Resources Control Board and other state agencies. Barovsky said they got word that these people are supporting a program that would protect and restore the Malibu Lagoon and Creek and Surfrider Beach.

Malibu Grant Writer Barbara

Cameron said this is a major reason why Malibu has a good chance at getting the grant money. She said she has met with Sam Schuchat, director of the California Coastal Conservancy, who said he is behind the project. The conservancy's board is one of the many organizations that have Proposition 50 money available that can be used to purchase the property. The city is also applying for grants from various other organizations. In addition, it has been put on the priority list for the State Revolving Fund Loan Program, with that money being used to build the facilities.

But one feature of the new plan put fear into some people. That is if the city does not come up with the money within a three-year period after an approval by the voters, the MBC would be able to develop the Chili Cook-off site as designated in Plan A, without the city receiving any of the public benefits.

One of the things Hogin will be approaching MBC about is identifying that portion of the agreement as well as other items, including allowing for the building of a 5,000 square foot community center on the Point Dume property. In addition, she will be asking about more

flexibility with the \$2.5 million donation, so that it can perhaps be used as an endowment for the urgent care facility. Hogin said talks are currently optimistic for both of those items.

Several issues were also raised at Wednesday's hearing and the following hearing on Saturday about whether Plan B would require a new Environmental Impact Report (EIR). Hogin said an environmental review would have to be done, but that she does not believe an EIR would be required for the Point Dume development, since it would be done according to the city code.

If the City Council approves the plan by July, its grant proposal could be placed on the October agenda for the Coastal Conservancy Board.

At a public hearing Saturday on the proposal, Councilmember Jeff Jennings gave more insight into the negotiation with the California Department of Parks and Recreation over the Bluffs Park situation. He said the state is looking to purchase land through various agencies where ball fields could be built. In addition, the state might be able to build ball fields there through a grant.

Malibu CAN skeptical on MBC deal

*Heated meeting filled
with profanity-laced
comments. Three versions
of MBC development
agreement are proposed.*

By Jonathan Friedman
Special to the Malibu Times

The mayor of Malibu faced attitudes ranging from hostility to a desire for cooperation to general curiosity at last Thursday's Malibu Community Action Network (CAN) meeting, which took place to discuss the Malibu Bay Company (MBC) Development Agreement.

CAN was recently formed in response to the development agreement. Its leaders, who include Orzlie Silna, John Mazza and Steve Uhsing, have been among the most vocal opponents of the MBC Development Agreement. And despite the city's announcement of a Plan B at a special City Council meeting last week, and the likelihood of a second version of Plan B, many Malibu CAN members still remain skeptical. (See story "New deal" at left for details on the plans.)

At the meeting, resident Steve Posey shouted, "The Malibu Bay Company is holding a gun to the heads of the people of Malibu, and I'm pissed off about it! And I don't want to see us roll over while they (MBC) say 'This property (Chili Cook-Off) is for sale if you give us all that we want.'"

Guest speaker at the meeting,

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that statement by asking what the alternative is. Posey, in a profanity-laced comment, said the city could tell the company off. Although several other people added to the anti-MBC sentiment, there were some who spoke favorably to the new idea. One of them was resident Georgiana McBurney, who said she is concerned about wastewater destroying Winter Canyon.

"That canyon is in deep trouble right now," she said. "And there's no way you can get it out of trouble unless we get a way to get rid of all that wastewater going over there. What I see in an opportunity like this is for the city to take over control of water disposal. That also means we control some of the development."

But Tammi Clark took another view on the matter. She said although she favors finding a way to clean Malibu's water, she fears that a wastewater-treatment facility might be playing into the hands of developers.

"We are basically giving carte blanche to the rest of the development in addition to the Malibu Bay Company," she said. "You've got Schultz. You've got La Prez ... you're basically helping them justify the amount of development

they want to do."

Several other people also expressed a concern that the city was not getting much out of Plan B, noting it did not address many of the concerns they had with Plan A.

"Other than the fact that we now can buy the Chili Cook-Off, under certain conditions, by the way, none of the other issues of the development agreement are diminished to their side of the ledger," Silna said. "And we, in fact, now do not have the donation that they were originally giving."

Kearsley reminded the group that City Attorney Christi Hogin is addressing those issues in the deal for second version of Plan B. This led several people to ask why a top-notch negotiator was not being hired to deal with the MBC representatives. Kearsley responded that he believed Hogin was best for the job because she had a special relationship with the MBC negotiator.

Several people said the city could get the upper hand in the deal making if the right people are doing it. Effron Fader said he found MBC owner Jerry Perenchio's behavior odd.

"If he (Perenchio) could do whatever he wanted, he would have

done it already," Fader said. "Something's holding him back, and I don't think it's anything philanthropic."

Kearsley said he had his own ideas on what was going on in Perenchio's head, but said it was difficult to know for sure.

"Dealing with a man who's got enough money where this really isn't a big issue is an entirely different process," he said. "I assume there's probably some ego involved in this."

Kearsley also told the group he was confident the city could get the \$25 million to buy the Chili Cook-off site, but added that nothing was a guarantee. In response to questions on what the rush was to get a deal done, he said if Gov. Davis is out of office, it would most likely mean the chance to get the Prop 50 grant is also gone, since it is his people who are saying the chances are good.

The mayor said he expects the second version of Plan B to be ready by the end of this week, because Perenchio is leaving for Europe. But Hogin said in an interview Monday night that there is no set deadline. However, she added that a final deal would definitely be made before the next City Council development agreement public hearing on July 9.

June 26, 2003 The Malibu Times

Council to give schools \$380K

By Jonathan Friedman
Special to the Malibu Times

The Santa Monica-Malibu Unified School District is on a winning streak. In the wake of the Measure S victory, the Malibu City Council approved a one-time contribution of \$380,000 at its meeting Monday. This follows the Santa Monica City Council's approval of a \$2.25 million increase to its annual donation. The combined total will allow the district to bring back several staff positions and programs that were cut earlier this year, but not brought back by Measure S. Among them are the remaining nurses, all library staff, physical education aides and specialists and some custodial workers. Also, summer school will not have to be canceled. That restoration will go before the Board of Education at its meeting on Thursday.

The Malibu contribution was approved by a 4-1 vote, with Councilmember Jeff Jennings dissenting. But rather than being a vote against giving money to the school, his opposition was a protest against what he said was a shortsighted proposal.

"It's a five-year problem (the district's financial crisis) at least," he said. "And we're offering a one-year solution, which will mean that we're all going to be back here next year arguing about the same thing."

At the previous meeting, Jennings had proposed the city give the district \$1.5 million over a five-year period. But the other councilmembers were unwilling to commit to that. Councilmember Shalom Barovsky said that even if the city did do that, it could be

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Council gives \$\$

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forced to later rescind the offer.

"I think it's very unfair to say, 'Oh we're going to guarantee this amount of money,' but if we have some disaster or something else," then you're out the money," she said.

Mayor Ken Kearsley encouraged people to support AB 1412, the half-cent sales tax currently moving its way through the Legislature. If approved by the state, it would then go before the voters. City staff estimate the tax could generate about \$900,000 for Malibu.

"If we had a revenue stream increase of \$900,000, then the future councils would be in a much better position to commit \$300,000 for the next five years to the schools," he said.

The SMMUSD received further good news with the council's approval of the Windsail development agreement. It includes a commitment by the developer, Weintraub Financial, to donate \$400,000 to the district over a six-year period in exchange for an increased floor area ratio (FAR) for the restaurant/spa facility. Although the city code requires most projects to have a .15 FAR, special consideration can be given for an increase of up to .05 if a community benefit is

offered. In addition to the contribution, 500 square feet in the restaurant would be enclosed to create a community meeting room on Monday and Tuesday from 10

"If we had a revenue stream of \$900,000, then the future councils would be in a much better position to commit \$300,000 for the next five years to the schools."

MAYOR KEN KEARSLEY

a.m. to 10 p.m. and from 10 a.m. to 4 p.m. Wednesday through Friday.

Although he voted in favor of the community benefits, Kearsley voted against the agreement as a whole. He raised a concern about the project being too large, causing a tight parking situation that he feared could cause backup on Pacific Coast Highway. House voted against the financial contribution, because she said she could not support allocating funds to a specific designation when there was no way of knowing what the city's financial situation would be at that time.

According to the agreement,

Weintraub will begin the financial donation once it receives its coastal development permit. But the city could give some of the money to the district from its general fund before that time. If the city chooses to go that route, Weintraub would then reimburse Malibu.

Assemblyperson Fran Pavley was also in attendance at the council meeting to speak about the state of budget negotiations in Sacramento. This past week, all the Democratic assembly members have been meeting with local government officials.

Pavley said she hoped to be able to vote on a budget by July 1, but added that it is a difficult task to get a budget done on time because of California's rare situation that requires a two-thirds majority approval. She also said she would do all she could to help the city get the Prop 50 funds it needs to purchase the Chili Cook-Off.

Also at the meeting, City Attorney Christi Hogin said she expects to hear by the end of the week from the court on whether the city can issue coastal permits without affecting its case against the California Coastal Commission.

Malibu Bay Company Proposes to Sell the Chili Cook-Off Site to City of Malibu for \$25 Million

■ Council Members Are Confident Grant Monies Are Available from Prop. 50

The Malibu Bay Company, owned by multi-billionaire Jerry Perenchio, has become a willing seller and has agreed to offer the entire Chili Cook-off site to the city for \$25 million, Malibu City Council members were told at the first of two special meetings last week.

The council had instructed City Attorney Christi Hogin to try and reopen negotiations about the Bay Company's proposed development agreement.

Hogin reported MBC was willing to sell the site including the developed properties, the lumber store, animal hospital and real estate office if the vacant portion is used only for open space, parkland, water ponds, streams and a wastewater treatment plant. MBC would be able to hook up its existing and proposed development as part of the deal.

Councilmember Joan House, who was on the council ad hoc committee that had previously negotiated with MBC about a development agreement, called the revelation remarkable saying, "The desire for Perenchio to sell has never been on the table. It is a departure from his position before. I applaud Christi."

The city attorney quickly pointed out that much like any negotiations the city was going to have to give up something in return. The Point Dume site would no longer be donated to the city and MBC would give \$2.5 million for ball fields at the new Malibu Bluffs Park rather than the original \$5 million for ball fields and a community center earmarked for Point Dume.

MBC also agreed to include a commitment to build an urgent care facility on the St. John's site and give the current tenant first right of refusal to lease the property at fair market value.

Municipal officials, fresh from a trip to Sacramento where they met with various state agency heads, seemed confident the city could obtain the funds to acquire the property and build a water treatment facility/water park that would call for zero discharge of treated wastewater into the lagoon.

"The state seems to be excited and has lots and lots of money they want to give us as a result of the bond measures," said Councilmember Jeff Jennings, who said the window of opportunity is now and the city would have to grab it

immediately or possibly face the state designing a legislative solution.

Hogin, at the Wednesday night meeting, had asked the council to think upon the matter before giving her and the staff direction. She recommended the council reconvene on Saturday morning for council comments and to hear

*"We are
gambling we
will get the
money..."*

more from the public.

By Saturday morning's session, council members seemed willing to go forward with the new offer that is being called Plan B. However, there seemed to be less enthusiasm with many speakers and some that flatly rejected the new alternative.

"Under Plan B there is no pub-

lic benefit to justify the increase of development allowed. The city cannot enter a development agreement for more density under our code unless MBC provides the city with special benefits which might not otherwise be provided by the developer," said Pat Healy.

At the previous meeting, Beverly Hammond complained that while Plan B addresses water quality it fails to provide the amenities proposed in the original development agreement. "But now, [in Plan B] there is no community center and the \$5 million has dropped to \$2.5 million," she added.

Another speaker said the council might be engaged in a form of gambling. "It is sort of a crap shoot. We are gambling we will get the money, otherwise we get Plan A and it is full of wars," said Steve Uhling.

Planning Chair Richard Carrigan, who said he was speaking as an individual agreed. "The advantages of Plan B are obvious. I do not think that we should move forward with B without the money in hand. Otherwise the results could be disastrous," he said.

Lucille Keller, representing the Malibu Township Council, said

the plan called for an area-wide sewer collector system that is inappropriate for the Civic Center.

"Is there any data that running piped sewage underground is safe? Liquefaction could destroy the pipes," Keller said, insisting the city should stay the course with requiring all developers to process wastewater on-site. "Uphold the planning commission's denial of Plan A, do not approve Plan B and wait Plan C."

Marlene Mallow, who spearheads efforts of Friends of Malibu Urgent Care, said she was pleased with the council considering a \$1 million endowment and added, "With any kind of decisions, there will be losers, the community center becomes the sacrificial lamb."

Rich Fox and other Malibu West residents contended the burden of development would shift to the west end of Malibu. "It seemed wonderful on first blush, but on reflection it seems worse [than Plan A]," he said.

Council members took time to comment on the public's statements. "I don't get it. You said too much development in Chili Cook-off. Now somebody says there is

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Chili Cook-Off

(Continued from page 2)
more development. If we can do it I'm 1000 percent behind it. It is going toward reducing development in the Chili Cook-Off. It is addressing public health and safety," said Councilmember Andrew Stern.

Jennings quipped that there is a Plan C, a Plan D and a Plan E. "Maybe Plan E is forcing the Malibu Bay Company to sue the city and require us to buy the Chili Cook-Off site," he said, adding he too was upset how during the most recent negotiations some amenities fell off the table including the open space at Point Dume.

Councilmember Sharon Barovsky said she shared some of the same fears of those who said there is a need to be sure the city is getting the grant money.

Councilmember Joan House said there were still donations that would be made by MBC in Plan B including the Smith parcel, Winter Canyon site, the Knoll property and 10 acres of open space at Trancas, plus the \$2.5 million in cash. Members also discussed the potential timeline and how likely it would be to get Plan B on the November ballot. "It may or may not work for November," said Hogin, who acknowledged there were lots of questions that still needed to be answered about the relationship of Plan B to the proposed development agreement's Environmental Impact Report or possibly the need for a supplemental EIR.

Mayor Ken Kearsley said the upside is a better environment and suggested the income stream from the developed properties that

would be owned by the city could be leveraged for much more money.

The mayor said some of the problems cited by the public are engineering problems that are solvable. "The upside is driving down PCH and seeing kelp beds, an ocean in balance. The proposal on the table will solve that," he said.

Council members directed the city attorney to go back to the MBC and talk more about loosening up some of the negotiated points such as more flexibility with how the city spends the \$2.5 million and if the MBC would commit to building a 5,000-square-foot community center as part of its buildout of the Point Dume site.

Plan B eliminates 185,000 square feet of proposed commercial development on the Chili Cook-Off site and proposes up to approximately 105,000 square feet of commercial development on the Point Dume site.

In her staff report, Hogin acknowledged some of the trade offs. "The major difference between Plan A and Plan B is in the benefits. Under Plan A, the focus of the benefits are 18.87 acre community park with playing fields and community center and the funds to develop them. The property is valued at approximately \$16 million," Hogin stated in her report.

"The major benefit under Plan B is regional or statewide, the opportunity to purchase the Chili Cook-Off to implement a major clean water initiative that will significantly improve water quality in and around Malibu."

BY BILL KOENEKER

JUNE 26 • 2003

MALIBU SURFSIDE NEWS

LETTERS to the EDITOR OPPOSED

Editor:

The city council's new Bay Company Agreement "Plan B" is nothing but a bailout of certain commercial and development interests in the Civic Center area using the excuse of so-called demands of the Regional Water Quality Control Board. There are better ways of meeting clean water standards than abrogating a cornerstone of our general plan that requires on-site disposal of wastewater. One of the primary reasons we voted to become a city was to stop a similar plan by Los Angeles County to pump under pressure raw sewage from collector pipes to a sewer plant.

We should use government to get what we really need: a wetlands system to treat storm runoff and clean lagoon waters, along with a park and playing fields in the Civic Center—not a sewer plan and soggy evapotranspiration field.

Walt Keller

From the Publisher

Arnold G. York

Be careful what you wish for...

June 26, 2003 The Malibu Times

So goes the old adage "Be careful what you wish for because you just might get it." For some in Malibu, getting what they wished for may not be really what they had in mind. That pretty much describes the position the more extreme end of the Malibu environmental community, which has spent an inordinate amount of time fighting the city and anything and everything the city ever proposes, finds itself in today. This extreme group suddenly finds itself in a terrible dilemma, concocted by the state and the Malibu City Council, and it's not sure what to do.

Within the last few weeks, our City Council has done something you seldom see a council doing. What it has done is come up with a reasonably original idea, and put it into a reasonably original plan. And then the council has done something you almost never see—put the plan into action. The idea is for the city to buy the Chili Cook-off site, all 19-plus acres, smack in the middle of Malibu, and turn it into a water reclamation project, which is the official name. But what it really will be is a small sewage treatment plant with large holding tanks (really, small ponds) for holding the water after it's been treated. Now before any of you panic and say, Oh my God, they want to put a sewage plant in the middle of Malibu, you ought to know that small sewage treatment plants (sometimes called package plants) have advanced with technology. They have really become very small and can be partially buried or landscaped in ways so you won't even know they are there. The problem is not treating the sewage; it is what to do with the clean water after it's been treated. The old solution would have been to just dump the clean water back into the ocean. Today, however, with the ocean having assumed semi-religious status among some, that option is not an alternative, unless you intend to bear the members of Heal the Bay senseless with clubs, as some of our more muscular brethren have suggested. That would be bad television and was ruled out as a possibility.

The reason the city is contemplating a water reclamation plant (their words since no one is ever allowed to mention the "S" word) should be abundantly clear to any of you with even a rudimentary sense of smell. Pretty much on any weekend, and on many a weekday, it becomes olfactory evident that many of our septic systems

in the Civic Center area, and along the beaches, are not working to top efficiency. In fact, many don't appear to be working at all. This fact has become so evident that the federal government, with the authority of the Clean Water Act and an alphabet soup of other federal laws, is pressing hard the California Regional Water Quality Control Board, the county and the city to fix all of it because it claims our effluent is a contributing factor in polluting the Malibu creek, lagoon and the surf zone. The Regional Water Quality Control Board is coming down hard on Malibu because the systems are failing and everyone wants action. Besides, it just hates septic systems, for reasons both real and imagined.

There are no real heavies in this battle, despite what many would like to believe. The systems are failing because Malibu is not, despite what some like to believe, a rural area any longer. Our intensity of use is growing and will continue to grow. Also, the population of the west Valley and the east Conejo Valley is growing, and the sewage and dirty runoff from those areas are headed our way, which means the Tapia treatment facility has to be bigger to handle the sewage. And all of it is complicated by the fact that we don't plow holes in the beach berm often enough to let the dirty water out (to keep the surfers happy), which then raises the water table, encourages septic failures, and the entire Civic Center and lagoon ends up being one big petri dish, sitting out there in the hot sun. All sorts of stuffs just loves to grow in it.

What the City Council is proposing, providing we get the \$25 million or so in grants to buy the Chili cook-off land, might just be the solution. The state likes it, the ocean enviros seem to like it and Malibu Bay Company owner Jerry Perenchio has apparently agreed to be a willing seller if the city can raise the bucks.

The local enviros are caught between a rock and a hard place. They're the ones who wanted a Civic Center park and wetlands. The proposed deal is not exactly what they wanted but it's damn close, and instead of saying thank you, they all went to the microphone at the special City Council meeting on Saturday and said, well, we're not really against it, but on the other hand, we're not really for it, blah blah blah.

It's going to get interesting.

MALIBU TOWNSHIP COUNCIL RESIDENT ALERT ON WEDNESDAY JULY 9 AT 6:30 P.M. AT CITY HALL

The City Council will continue the public hearing on 57 Bay Co. development applications to build more than 455,000 sq. ft. of commercial, office and residential use at Civic Center, Pt. Dume and Trancas.

Added to other owners' current Civic Center applications, 461,651 sq. ft. of new commercial development could be built in the Civic Center alone - almost 4 times the existing Colony Center.

BUT - ARE YOU AWARE THAT

- The Plan changed at the June 18 meeting. "Plan B" adds a Sewage treatment plant on the Chili Cook-off site. The Bay Co. offered to sell the Chili site to the city for \$25M - the sewer plant would be funded by an assessment district.
- No data to prove the ability to dispose of the effluent, or the safety of running sewage through a maze of underground pipes was provided.
- The Chile site has a high underground water table, is in a flood zone and an earthquake fault goes through it.
- The sewer plant would serve Civic Center vacant and developed commercial properties - but could be extended to the residential properties surrounding the Civic Center.
- The donation of the Pt. Dume property and \$5M for a community center has been deleted from the deal - instead Bay Co. offers \$2.5M for ballfields.

For 35 years MTC and the community have opposed a collector sewage plant because of the environmental and safety hazards associated with running sewer pipes in the historically unstable ground of Malibu. The Council decision cannot be rushed - a thorough evaluation is required before any decision is made.

ATTEND THE JULY 9 HEARING - LET THE COUNCIL HEAR FROM YOU

Dreams can come true

Congratulations to the present City Council for being the best listening and most integrated governing team this city has ever seen. In relation to the Malibu Bay Development Agreement, they have heard the community's desires and objections. Then, in negotiation with Mr. Perenchio and the state, there is a new development plan tailored to meet the citizen voice.

How long have we yearned for a city park, a symbolic retreat of running streams and a green oasis of paths and beauty worthy of this remarkable Malibu? Remember how many people have expressed that dream. And how impossible it seemed. Under the new agreement, it will be possible for us to purchase the crown jewel of the Civic Center, the Chili Cook-off site for 25 million.

How long have we wanted to clean up the creek, the lagoon and our famous Surfrider Beach? For years we have been silently living with a failing commercial septic system that has smelled up our neighborhoods and fouled our shopping center streets. During storms, wastewater and storm water flooded out our residents, the creek and the ocean. This city has become known to the state as a health and safety hazard. The state has been grumbling again about paying in sewers. By placing a new treatment plant owned by the city on one small part of the parkland we can produce high-grade tertiary treated clean water to fill the parkland streams. And this becomes a way to make the park possible as well as get state aid to pay for this venture and environmental groups to back it.

Another dream is an Urgent Care Center. This new agreement provides for a building and a million dollars to start it off right. And then there are the ballparks. One and a half million dollars available to the city to be used for ballfields and the promise of the state parks that we may use Bluffs Park until we find a new location.

Congratulations to the council and staff who have listened and acted. What has happened here is a model of how well democratic government can work in accomplishing the needs and desires of the citizens.

Georgianna McBurney

The Malibu Times July 3, 2003

Win-win agreement

As a slow-growth pragmatist, I watched the special City Council meeting on Saturday (re-televised this week on Channel 3 at 8 a.m. and 8 p.m.) with cautious optimism. I know we are far from there yet, but our City Council members and the Malibu Bay Company seem to have made amazing progress toward what in the past has seemed like an impossible boulder-littered highway toward the approval of the Malibu Bay Company Development Agreement.

I'm speaking of their strategic and rapid move toward a "Plan B" adding as part of the Malibu Bay Company Development agreement, the purchase/acquisition of the Chili Cook-Off property (instead of the "Plan A" that guaranteed development rights on the Chili Cook-Off property in 10 years.)

Coming to a successful negotiated development agreement that will allow the City to buy the Chili Cook-Off property, getting the grant money to do it, and then doing it, establishing a water treatment facility that will treat the dangerous pollution in our lagoon, and create a beautiful waterway municipal park

will be nothing less than the greatest win-win-win Land Use and Water Quality triumph of our short history.

Murphy's law notwithstanding, the plan is not yet finalized, but I for one would like to give credit where credit is due—to our council and staff, a fine team of public servants, and to the Malibu Bay Company for its willingness to sit at the negotiating table in an attempt to balance the needs of a community that wants slow-growth, limited commercial development, and community amenities.

I hope that all parties involved will continue along this road in a spirit of real cooperation and that the community will be supportive of their efforts.

Mona Loo,
Member, Park Bond Measure
Citizen's Advisory Committee

Loophole allowing 'third stories' could be closed

■ The Planning

Commission redefines the term "basement" to prevent visual disturbances.

By Jonathan Friedman
Special to the Malibu Times

A loophole allowing people to essentially build a third story on their house could go away. At

Monday's Planning Commission meeting, it voted 4-0 to recommend a basement be included in the calculation of a home's square footage. Also, it recommended the definition of a basement be changed.

With the current definition and rules for basements, homes can have one of its basement walls above ground. This, of course, can be seen and in a sense creates another floor to a home, allowing Malibu houses, in a way, to be built with a third

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floor, which is not allowed by the city code. Some city councilmembers had grown concerned that there were a growing number of permit applications to build these basements, and the council then recommended the city look into changing the rules to prevent what some considered to be a visual disturbance.

With the commission's recommendation, basements would be defined as a structure that is built entirely below the first floor of the home. Also, basements greater than 1,000 feet in size would be counted toward the total square footage of the home. This is significant, since the size of Malibu structures are limited based on the ratio to the total amount of land that it occupies. According to the proposal, one square foot would be counted toward the square footage of a home for every two square feet the basement is more than 1,000. Also, basements would be limited to 12

feet in height.

Also at the meeting, Planning Manager Ed Knight said if the council were to choose to go ahead with Malibu Bay Company (MBC) Development Agreement Plan B, it would need to go before the commission for a review. This is due to a requirement in the city code that development agreements changed in the public hearing process must go back to the commission for a review. But it would not require another set of public hearings for the commission. If the council decides to keep with the current schedule, aiming for a November election on the agreement, that would mean the commission would have to review the new agreement in its next scheduled meeting on July 21 to keep pace with county election regulations.

The council was expected to direct staff at a Wednesday meeting that occurred after the Times went to press on whether it wanted to go

ahead with the plan. The exact details of it are still being worked out between City Attorney Christi Hogin and MBC officials. In a late Tuesday interview, Hogin said something would be before the council at that meeting, but not necessarily the finalized deal.

At the beginning of Monday night's meeting, the commission elected Robert Adler as its new chair. Roney was elected as vice-chair. Before officially stepping down from his post, outgoing Chair Richard Carrigan made a heartwarming speech, in which he had to hold back tears.

"A year ago I did not want to chair this committee," he said. "I realized that we had enormously important projects in front of the commission. I didn't want to spend the time. Now, a year later, I can say without reservation, chairing this committee was one of the most memorable experiences of my life."

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MALIBU SURFSIDE NEWS

Robert Adler Tapped as New Planning Commission Chair

■ Vice Chair Declined Position

Commissioner Robert Adler was passed the gavel by outgoing Chair Richard Carrigan in a somewhat unusual rotation when Vice Chair David Fox stepped aside for Adler.

Carrigan explained that under normal circumstances the rotation involves the vice chair assuming the top post after a traditional vote of the commission. With Commissioner John Sibert absent, the commission unanimously agreed to the arrangement.

Fox decided to forgo the position because of the time constraints of his family life and business. "Dr. Adler, on the other hand, has all the time in the world," quipped Carrigan, who, on a more serious note, said he believed Adler would make an extremely effective chair "because he takes the work and responsibility seriously, has a respect for the law and is thoughtful and analytical."

Subsequently, Fox nominated Commissioner Deirdre Roney as vice chair. She was praised by Carrigan as "the hardest working, most intelligent individual."

The outgoing chair cited a story about Roney saying he remembers when there was a commission meet-and-greet session and Roney walked in with a copy of the General Plan and IZO with the passages all marked with yellow tags. She had reviewed the voluminous documents and was ready with questions. "I have the highest respect for her integrity and honesty," Carrigan added.

During his incoming remarks, Adler said the hallmark of the pre-

sent commission is that they do not make political decisions. "I'll make it very clear it is to do the business of the people. It is based on fact and law," he said.

The incoming chair added he hoped to make the change of the chair "as transparent as possible and follow in [Carrigan's] footsteps."

Commissioners were given an update on the Malibu Bay Company development agreement and told by Acting Planning Manager Ed Knight that the latest alternative version—if given the go-ahead by the city council—would come back to the planning commission for review.

"It doesn't need to be a public hearing, but it needs to occur," added Knight, who said if the council tries to keep placing some form of the development agreement on the November ballot, the agenda item would be placed on the commission's July 21 agenda.

Upon questioning, Knight said he did not have any answers about the role the development agreement's Environmental Impact Report would play in the unfolding turn of events.

The commission did not make any recommendations on the EIR, though it recommended denial of the originally proposed development agreement.

Knight told commissioners the consultants are still evaluating what role the current EIR would play in any new alternative. The question could be critical since some of the renegotiated aspects of the latest development agreement

call for developing the Point Dume site with approximately 105,000 square feet of commercial buildings.

The EIR for the development agreement evaluated the proposed ball fields and community center and it remains unclear if a supplemental EIR will be required.

In other action, the commission considered sweeping changes to processing and administering development permits.

The changes recommended by the staff call for amending findings for Site Plan Review, including those relating to neighborhood character, protection of natural resources and protection of primary view.

Additionally, the commission also discussed amending the zoning code to calculate portions of basements as structure size and modifying the standard for determining what is defined as a basement.

BY BILL KOENEKER